

REMARKS

Claims 1-2, 14-16 and 18 have been amended to correct the typographical error(s) of not having the numerals following “R” be in superscript, as is usual in the art. Also the typographical error C₁₋₄ cyclohetalkyl in the definition of R³ and R⁴ has been corrected in claims 1 and 2. Support is found on page 12, lines 14-15.

Claim 1 has been amended to delete “prodrugs” and to correct the Markush language. Additional specific compounds have been added to claim 1; these are exemplified in Table 3, on page 45-48 but do not fall within the scope of the claim as originally proposed. It will be seen that variation occurs only in the substituents included in these compounds.

Claim 2 has been amended to correct Markush language. Claims 2-4 have been amended to include explicitly salts, solvates, crystal forms and diastereomers in order to conform to claims 1 and 5.

The dependency of claims 7 and 8 has been changed from claim 3 to claim 1; the dependency was originally on any one of claims 1 to 6 and, for reasons that are unclear, the preliminary amendment, in an effort to eliminate multiple dependent claims, changed the dependency solely to claim 3. Since claim 1 was originally included among those claims from which claim 8 depends, this change does not constitute new matter.

Claim 8 has been amended to limit the method of treatment to treating lymphoma and leukemia, indications recognized by the Office as enabled. Claims 9-12 have been canceled.

New claim 19 is a narrower form of claim 1; the definitions of substituents have been imported from claim 1 and the backbone structure clearly conforms to many of the compounds

tested as set forth in Table 3. Thus, no new matter has been added and entry of the amendment is respectfully requested.

The following comments are pertinent to the outstanding rejections:

Obviousness-Type Double-Patenting

Claims 1, 3, 7-10 and 12 were provisionally rejected as obviousness-type double-patenting over claims 1-16 of copending application 11/397,982 and claims 8-10 and 12 were provisionally rejected for the same reason over claims 1-8 of Serial No. 11/711,957. Terminal disclaimers with respect to these applications and to additional members of this family – US Patent 7,259,179 and application 11/397,973 are enclosed herewith to obviate this rejection.

35 U.S.C. § 112, First Paragraph

Claims 1, 2, 4, 5 and 13-17 were rejected under 35 U.S.C. § 112, first paragraph, based on the inclusion of prodrugs, solvates and crystal forms. None of the claims now include prodrugs, thus obviating this portion of the rejection.

As to the rejection of crystal forms and solvates, applicants agree that further invention may be required in order to prepare any specific crystal form or any specific solvate, and the practitioner succeeding in preparing such a solvate or crystal form would himself or herself be entitled to patent protection if statutory requirements are met. However, applicants point out that the inclusion of solvates and crystal forms merely makes explicit what would have been included in the claim anyway. Clearly the claim absent these terms would include any form of the compound of the given formula whether it is crystalline or amorphous and whether it is solvated or not. The Office appears

to recognize this, as no objection was raised to hydrates. For this reason, this basis for rejection may be withdrawn.

Claims 8-10 and 12 were rejected as being enabling only with respect to treatment of lymphoma and leukemia. Claim 8 is directed to the treatment of these conditions and the remaining claims have been canceled.

Claims 1, 2, 4, 5 and 13-17 were rejected under 35 U.S.C. § 112, second paragraph, for several reasons. First, the issue of “prodrug” has been mooted by cancellation of this word from the claims.

As to the recitation of “Q is a bond”, this has been addressed by amendment. The claim, as it currently reads, says that either Q is CH or trivalent alkylene and W is then defined or it is stipulated that both Q and W are absent. Applicants believe “trivalent alkylene” is clear; they are unaware of any generic term which indicates trivalence.

The lack of antecedent basis in claim 5 is now mooted by amendment and correction has been made to claim 3 to eliminate duplicates.

It is therefore believed that all of the outstanding rejections under 35 U.S.C. § 112, paragraph 2, have been addressed.

Allowable Subject Matter

Applicants appreciate acknowledgement that terminal disclaimers with respect to applications 11/397,982 and 11/711,957 would overcome the obviousness-type double-patenting rejections, that limitation of the method claims to the treatment only of leukemia or lymphoma would overcome the § 112, paragraph 1, rejection and deletion of the duplicate Markush group

